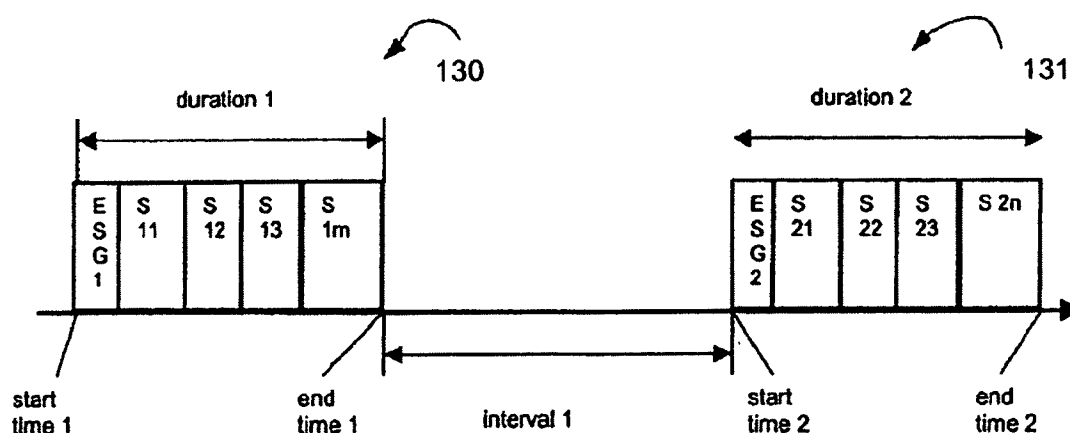


REMARKS

In the outstanding Office Action, claims 12-14 and 16-17 were rejected under 35 U.S.C. §103(a) over VERMOLA (U.S. Patent Application Publication No. 2005/0090235). Claims 15 and 18-19 were rejected under 35 U.S.C. §103(a) over VERMOLA in view of YAMAGUCHI (WO 03/073753).

Upon entry of the present amendment, each of independent claims 12 and 17-19 will have been amended. The amendments to independent claims 12 and 17-19 should not be considered an indication of Applicants' acquiescence as to the propriety of any outstanding rejection. Rather, Applicants have amended claims 12 and 17-19 in order to advance prosecution and obtain early allowance of claims in the present application.

In the amended independent claims of the present application, a batch that concludes with a pause in transmission includes a first burst and a second burst, and first and second bursts are transmitted without a pause therebetween. In contrast to the claimed combination, the rejection cites Figure 13 of VERMOLA, a copy of which is reproduced below:



**Fig. 13**

The Office Action interprets a “burst” in VERMOLA as 130 (i.e., the combination of ESG1, S11, S12, S13 and S1m) and 131 (i.e., the combination of ESG2, S21, S22, S23 and S2n). The Office Action also interprets the combination of both such “bursts” 130 and 131 as a “batch” in the claims (i.e., concluding with a pause in transmission after S2n). Such an interpretation of VERMOLA is avoided in the pending amended claims by the added features that “first and second bursts are transmitted without a pause therebetween”, in contrast to the pause between S1m and ESG2 in VERMOLA. Accordingly, the amended independent claims are allowable over VERMOLA for reasons in addition to those that exist before the present amendment.

The claims prior to the present amendment are and were also allowable over VERMOLA. In this regard, the Office Action cites paragraph [0074] for the proposition that each of ESG1 and ESG2 carry “data related to the first service and the second service as carried in said third stream”, and paragraphs [0049] and [0072] for the proposition that it would be obvious for each of ESG1 and ESG2 in VERMOLA to carry all such data of both services. However, it would not be obvious to repeatedly provide all data related to different services in each of ESG1 and ESG2. Any such interpretation of VERMOLA is informed only by reading VERMOLA with the hindsight benefit of the claims of the present application. That is, in the embodiment of Figure 13, VERMOLA explicitly shows ESG 1 and ESG 2 data being sent with the service data carried in 130 and 131, respectively, whereas the teaching of paragraph [0049] is that “part or all of the ESG, or media guide, are sent at predefined intervals” and not that ESG1 and ESG2 each carry all data related to a first service and a second service (i.e., are redundant to each other).

Further, an interval is provided between 130 and 131 in Figure 13 of VERMOLA, but 130 and 131 are not described as being sent at “predefined intervals” as in the embodiment noted

at paragraph [0049], and there is no proper reason to modify VERMOLA to send 130 and 131 at predefined intervals as in this alternative embodiment described at paragraph [0049]. That is, ESG1 and ESG2 in VERMOLA are not described as redundantly including sending all of the ESG, or at predefined intervals as in the alternative embodiment described at paragraph [0049]. Further, it would not be obvious to modify VERMOLA to redundantly send all ESG data of first and second services with 130 and 131, and at predefined intervals as described in paragraph [0049]. The only suggestion for such modifications of VERMOLA is in view of hindsight informed by the pending claims of the present application.

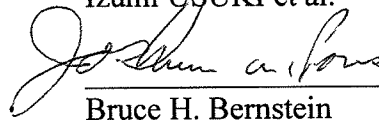
For at least the reasons set forth above, amended independent claims 12 and 17-19, both prior to and upon entry of the present application, are not disclosed or rendered obvious by VERMOLA. Therefore, independent claims 12 and 17-19 are allowable over the documents applied in the Office Action. Claims 13-16 are allowable at least for depending, directly or indirectly, from an allowable independent claim, as well as for additional reasons related to their own recitations. Accordingly, reconsideration and withdrawal of each outstanding rejection is respectfully requested.

Any amendments to the claims in this Response, which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

P28954.A20

Should there be any questions, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,  
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